CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL VALLEY REGION

RESOLUTION NO. R5-2002-0205

CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM CONFINED ANIMAL FACILITIES

WHEREAS, California Water Code Section 13260(a) requires that any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than to a community sewer system, shall file a Report of Waste Discharge (RWD) containing such information and data that may be required by the regional water board; and

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board), has a statutory obligation to prescribe waste discharge requirements (WDRs) except where the Regional Board finds, pursuant to California Water Code Section 13269, that a waiver of waste discharge requirements for a specific type of discharge is not against the public interest; and

WHEREAS, California Water Code Section 13269 provides that any such waiver must be conditional and may be terminated at any time; and

WHEREAS, recent amendments to California Water Code Section 13269 (SB 390) provide that waivers in existence on 1 January 2000 will expire effective 1 January 2003 unless renewed by the Regional Board, that new waivers of waste discharge requirements for specific types of discharges must be renewed every five years, that compliance with the waiver conditions is required, and that the Regional Board shall review the terms of the waiver and determine whether the discharge should be subject to general or individual waste discharge requirements at a public hearing; and

WHEREAS, the Regional Board, in accordance with California Water Code Section 13269 waived waste discharge requirements for confined animal wastes in 1982 as set forth in Regional Board Resolution 82-036; and

WHEREAS, the Regional Board, in compliance with California Water Code Section 13269, reviewed the previously issued waiver for confined animal wastes and has determined that it should be eliminated and replaced by a new categorical waiver, general waste discharge orders, and general National Pollutant Discharge Elimination System (NPDES) permits; and

WHEREAS, the Regional Board has adopted individual waste discharge requirements and general waste discharge requirements that apply to specific dischargers and intends that those orders will remain in effect until specifically revoked as to an individual discharger; and

WHEREAS, the Regional Board has adopted the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4th Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2d Edition 1995) that establish beneficial uses, water quality objectives, and implementation policies that apply to waters of the state and discharges to waters of the state within the Central Valley Region; and

WHEREAS, the State Water Resources Control Board (State Board) adopted regulations in Title 27 California Code of Regulations (CCR), Division 2, Chapter 7, Subchapter 2, sections 22560-22565 (Title 27 CCR) that apply to confined animal facilities; and

WHEREAS, the State Board has published the "Plan for California's Nonpoint Pollution Control Program" (Plan) dated January 2000 and this Plan provides guidance to Regional Boards on the control of nonpoint source pollution, including discharges from confined animal facilities that are not subject to NPDES permits. This Plan includes a three-tier process that indicates that conditional waivers of waste discharge requirements may be appropriate in regulating certain types of discharges. Proposed actions in the Plan concerning confined animal facilities include support and participation of dairy facilities in the California Dairy Quality Assurance Program (CDQAP); and

WHEREAS, an effective Environmental Stewardship Program with active involvement of federal, state, local, and regional agencies and the confined animal industry or a local environmental ordinance has the potential for identifying and correcting water quality problems without the need for individual or general waste discharge requirements, thus saving both the dischargers and the state the administrative burden involved with a permit-based program; and

WHEREAS, the Regional Board recognizes the advantages of an Environmental Stewardship Program or local environmental ordinance and encourages these programs while recognizing that the Regional Board, not these programs, has the responsibility to regulate waste discharges to protect the quality of the waters of the state within the Central Valley Region. The Regional Board also recognizes the need to coordinate with the confined animal industry and other governmental agencies to cooperatively take action to protect water quality; and

WHEREAS, even where Environmental Stewardship Programs or local environmental ordinances exist, individual dischargers have a responsibility to take action to protect water quality and to comply with applicable Regional Board orders, policies, and regulations; and

WHEREAS, the CDQAP is an Environmental Stewardship Program which consists of continuing education workshops for producers, creation of Environmental Stewardship Farm Management Plans, third party on-site evaluations, and certification; and

WHEREAS, most poultry facilities in the Central Valley Region transport wastes off-site for composting and do not discharge waste to land or surface water; and

WHEREAS, the California Poultry Federation (CPF) has a program to educate and encourage its members to develop and implement Nutrient Management Plans and as of 1 January 2001, all of the CPF members had submitted Nutrient Management Plans to CPF; and

WHEREAS, some counties have local environmental ordinances with requirements for confined animal facilities that equal or exceed the requirements of Regional Board regulations; and

WHEREAS, regulations in Title 27 that apply to confined animal facilities are protective of surface water quality, but may not be adequate to protect groundwater quality; and

WHEREAS, the conditions of this Resolution provide more protection of groundwater quality than Title 27; and

WHEREAS, the Regional Board will evaluate the effectiveness of Title 27 to protect groundwater quality; and

WHEREAS, the Regional Board is the lead agency under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)(CEQA) with respect to adoption of a waiver of waste discharge requirements and general orders; and

WHEREAS, the CEQA regulations at 14 CCR Section 15301 provides for a categorical exemption from CEQA for "Existing Facilities" that consists of "...the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time..." of adoption of this waiver; and

WHEREAS, the Regional Board conducted a public hearing on 6 December 2002 in Sacramento, California, considered all testimony and evidence concerning this matter; and

THEREFORE BE IT RESOLVED, that in accordance with California Water Code Section 13269, the waste discharges from confined animal facilities shall be regulated in the future by waivers, individual or general waste discharge requirements, or individual or general NPDES permits; and

BE IT FURTHER RESOLVED, that the Regional Board, based on the hearing, adopts the "Conditions for Waiver of Waste Discharge Requirements for Discharges from Confined Animal Facilities" specified in Attachment A (Conditional Waiver); and

BE IT FURTHER RESOLVED, that this waiver is conditional and is intended to regulate discharges of waste that could affect the quality of the waters of the State and should be continued until new information indicates the need to revise the conditions or adopt general waste discharge requirements; and

BE IT FURTHER RESOLVED, that the Regional Board, based on the hearing, finds that the adoption of the Conditional Waiver for certain confined animal facilities, including dairies and poultry operations, as further described below, would not be against the public interest provided that all dischargers

- (a) Comply with all applicable provisions of the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4th Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2d Edition 1995); and
- (b) Comply with the conditions for waiver of waste discharge requirements as set forth in the Conditional Waiver; and
- (c) Comply with applicable State Water Resources Control Board policies, including, but not limited to Resolution 68-16 relating to maintaining high quality waters in California; and

BE IT FURTHER RESOLVED, that coverage under the Conditional Waiver is limited to: those confined animal facilities that are "existing facilities" as of 1 January 2003 consistent with the "existing facility" exemption in 14 CCR Section 15301; and those confined animal facilities that are new or expanded after 1 January 2003 that provide documentation of compliance with CEQA by a lead agency that adequately evaluates the environmental impacts of the new or expanded facility; and

BE IT FURTHER RESOLVED, that the Regional Board finds that the adoption of the Conditional Waiver is exempt from CEQA because it applies to existing facilities and to new and expanding facilities that demonstrate compliance with CEQA prior to obtaining coverage under the Conditional Waiver; and

BE IT FURTHER RESOLVED, that the Conditional Waiver applies only to waste discharged from a confined animal facility including, but not limited to, dry manure and process wastewater resulting from water directly or indirectly used in the management of a confined animal facility or resulting from any of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits or other feedlot facilities; washing or spray cooling of animals; and dust control (as defined in Title 40 Code of Federal Regulations Part 412.21). Process wastewater also includes precipitation which comes in contact with any manure, litter, bedding, feed supplies, or with any other raw material, intermediate or final material or product used in or resulting from the confined animal facility; and

BE IT FURTHER RESOLVED, that only those dischargers operating confined animal facilities that demonstrate certification in a recognized Environmental Stewardship Program or local environmental ordinance program as further described in the Conditional Waiver are eligible for coverage under the Conditional Waiver. The Executive Officer is directed to review Environmental Stewardship Programs and local environmental ordinance programs which seek

to be recognized for purposes of compliance with this resolution, and where needed, enter into a memorandum of understanding with programs which the Executive Officer decides meets the criteria of the confined animal facility program; and

BE IT FURTHER RESOLVED, that the discharge of any waste not specifically regulated by the Conditional Waiver described herein is prohibited unless the discharger obtains waste discharge requirements or other permission to discharge; and

BE IT FURTHER RESOLVED, that persons who own confined animals for non-commercial purposes are not required to submit a RWD for a waiver of waste discharge requirements or for waste discharge requirements unless they discharge directly into waters of the state and/or they are requested to submit a RWD by the Executive Officer; and

BE IT FURTHER RESOLVED, that any person that generates discharges from confined animal facilities and seeks coverage under the Conditional Waiver shall submit a completed RWD (Attachment B) to the Regional Board documenting compliance with the Conditional Waiver and the applicable filing fee; and

BE IT FURTHER RESOLVED, that any person that generates discharges from confined animal facilities and who does not seek coverage under the Conditional Waiver shall submit a notice of intent (NOI) to comply with general waste discharge requirements (if such an order is adopted) or a general NPDES permit (if such an order is adopted) within 60 days of the adoption of such requirements or permit; and

BE IT FURTHER RESOLVED, that discharges associated with confined animal facilities that comply with the eligibility criteria and procedure for a Waiver may commence upon receipt by the Regional Board of the applicable documents (as described in the Conditional Waiver). However, the Executive Officer may terminate the applicability of the Waiver as to any specific confined animal facility if the Executive Officer makes any of the following determinations:

- (a) The proposed confined animal facility is not in compliance with the eligibility criteria for the Conditional Waiver.
- (b) The confined animal facility is not in compliance with the applicable conditions of the Conditional Waiver.
- (c) The existing confined animal facility will have a significant effect on the environment due to unusual circumstances, may result in damage to scenic resources, is located on a hazardous waste site as listed in Government Code Section 65962.5, or may cause substantial adverse change in the significance of a historical resource; and

BE IT FURTHER RESOLVED, that upon receipt of notice of termination of applicability of the Waiver, the discharger shall immediately cease all activities that may result in discharges that could affect the quality of waters of the state. Upon notice of termination, the discharger must file a RWD and submit an applicable filing fee with the Regional Board. Activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under the general waste discharge requirements, the adoption by the Regional Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with California Water Code Section 13264(a) [which may be longer than 120 days, depending on what is necessary to comply with CEQA]; and

BE IT FURTHER RESOLVED, it shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of the Conditional Waiver; and

BE IT FURTHER RESOLVED, that a waiver for any specific facility applies to the owner and operator (hereafter discharger) that submitted the RWD. In the event of any change in control or ownership of land or waste discharge facilities described in the RWD, the discharger shall notify the Regional Board immediately and the succeeding discharger of that person's responsibility to comply with the Conditional Waiver. In order to continue the discharge pursuant to the Conditional Waiver, the new discharger must submit a RWD and receive approval by the Executive Officer; and

BE IT FURTHER RESOLVED, that a person whose waste discharge requirements have been waived pursuant to the Conditional Waiver shall

- (a) comply with all applicable provisions of the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4th Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2d Edition 1995);
- (b) discharge only in accordance with a complete RWD;
- (c) not create a pollution, contamination, or nuisance, as defined in California Water Code Section 13050;
- (d) not discharge waste not specifically regulated by the waiver described herein;
- (e) allow Regional Board staff reasonable access onto the affected property for the purpose of performing an inspection to determine compliance with waiver conditions; and

BE IT FURTHER RESOLVED, that, pursuant to California Water Code Section 13269, the waiver of waste discharge requirements for the categories of waste specified herein shall not exceed two years in duration; and

BE IT FURTHER RESOLVED, that, in compliance with California Water Code Section 13269, this Resolution and the categorical waivers described herein, shall be reviewed and amended as necessary no later than two years from the date of adoption of this Resolution; and

BE IT FURTHER RESOLVED, that this conditional waiver shall become effective 1 January 2003 and expire 31 December 2004 unless terminated or renewed by the Regional Board; and

BE IT FURTHER RESOLVED, that this waiver shall not create a vested right and all such discharges shall be considered a privilege as provided for in California Water Code Section 13263; and

BE IT FURTHER RESOLVED, that this action waiving the issuance of waste discharge requirements for certain specific types of discharges (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not authorize any condition of pollution, contamination, or nuisance, as defined in California Water Code Section 13050, (e) does not preclude the need for permits which may be required by other local or governmental agencies, and (f) does not preclude the Regional Board from administering enforcement remedies (including monetary civil liability) pursuant to the California Water Code; and

BE IT FURTHER RESOLVED, that, in compliance with California Water Code Section 13269, the Executive Officer will develop and implement a program to evaluate compliance with the conditions pursuant to which waste discharge requirements are waived by this Resolution; and

BE IT FURTHER RESOLVED, that, as provided by California Water Code Section 13350(a), any person may be liable civilly if that person in violation of a waiver condition or certification, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance; and

BE IT FURTHER RESOLVED, that the Regional Board may review this conditional waiver at any time and may modify or terminate the waiver in its entirety or for individuals, as is appropriate.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 6 December 2002.

_____Original Signature on File]
THOMAS R. PINKOS, Executive Officer

ATTACHMENT A

CONDITIONS FOR WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM CONFINED ANIMAL FACILITIES

California Water Code Section 13269 authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive waste discharge requirements as to a specific type of discharge if the waiver is not against the public interest and the waiver is conditional. This waiver may be terminated at any time by the Regional Board.

The Regional Board in Resolution R5-2002-0205 waived waste discharge requirements for discharges from certain confined animal facilities in the Central Valley Region if the owner/operator of the confined animal facility (hereafter "Discharger") complies with the conditions listed in I, II, III, IV, V, and VI below.

I. Eligibility Conditions

This Waiver applies only to facilities that meet all of the following:

- 1. Confined animal facilities that:
 - a. Are in existence as of 1 January 2003; or
 - b. Are new or expand¹ after 1 January 2003 and that provide documentation of compliance with the California Environmental Quality Act (CEQA) by a lead agency that adequately evaluates the environmental impacts of the new or expanded facility in an Environmental Impact Report or Negative Declaration.
- 2. Dairies that are certified by the California Dairy Quality Assurance Program (CDQAP), poultry facilities that have developed and implemented a Nutrient Management Plan under the California Poultry Federation's (CPF) program, and confined animal facilities that operate under a Regional Board recognized Environmental Stewardship Program or local ordinance.
- 3. Confined animal facilities that are not subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements pursuant to the federal Clean Water Act. ²

¹ Expansion includes, but is not limited to, any increase in herd or flock size such that the facility would have to: acquire more acreage for reuse of waste or wastewater to prevent impacts to surface water or groundwater quality; or increase the capacity of the retention pond to maintain compliance with the conditions of the waiver for adequate flood protection and wastewater containment.

² The Clean Water Act and its implementing regulations require that all concentrated animal feeding operations (CAFOs) are point sources and subject to NPDES permitting requirements. A CAFO is defined as any animal feeding operation that has more than 1,000 animal units, except where such a facility only discharges during a 25-year, 24-hour storm event or larger. Some smaller animal feeding operations may be designated as CAFOs if they meet certain criteria.

4. Confined animal facilities that discharge only waste that includes, but is not limited to, dry manure and process wastewater resulting from water directly or indirectly used in the management of a confined animal facility or resulting from any of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure pits or other feedlot facilities; washing or spray cooling of animals; and dust control (as defined in Title 40 Code of Federal Regulations Part 412.21). Process wastewater also includes precipitation which comes in contact with any manure, litter, bedding, feed supplies, or with any other raw, intermediate or final material or product used in or resulting from the confined animal facility.

II. Application Conditions

To enroll in this Waiver, the Discharger shall submit the following applicable documents to the Regional Board by the deadline specified.

- 1. Confined Animal Facilities Existing as of 1 January 2003
 - a. Owner/operators of existing confined animal facilities with more than 1,000 animal units³ shall submit the following by **31 March 2003**. Owner/operators of existing confined animal facilities with 1,000 or fewer animal units shall submit the following by **1 June 2003**:
 - i. A completed Report of Waste Discharge (Attachment B) documenting compliance with the conditions of this Waiver; and
 - ii. A filing fee in accordance with the State Water Resources Control Board fee schedule (all or a portion of the filing fee will be refunded in accordance with Section 13260(e) of the California Water Code).
 - b. Owner/operators of existing poultry facilities with more than 1,000 animal units shall, in addition, submit one of the following by **31 March 2003**. Owner/operators of existing poultry facilities with 1,000 or fewer animal units shall, in addition, submit one of the following by **1 June 2003**:
 - i. Documentation of development and implementation of a Nutrient Management Plan under the CPF program, or

³ An animal unit is currently defined in Appendix B to Part 122 of Title 40 Code of Federal Regulations as a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. See Table 1 for a list of the numbers of different animals that make up 1,000 animal units as currently defined. The definition of an animal unit shall be consistent with any future changes to the federal definition

- ii. A Plan with a schedule to develop and implement a Nutrient Management Plan under the CPF program or another Regional Board recognized Environmental Stewardship Program that requires full implementation by 1 January 2005, or
- iii. A Plan with a schedule to obtain certification under a Regional Board recognized local ordinance program by **1 January 2005**.
- c. Owner/operators of existing dairy facilities with more than 1,000 animal units shall, in addition, submit one of the following by 31 March 2003.
 Owner/operators of existing dairy facilities with 1,000 or fewer animal units shall, in addition, submit one of the following by 1 June 2003:
 - i. Documentation of CDQAP certification, or
 - ii. A Plan with a schedule to obtain CDQAP certification that includes:
 - (1) By **1 January 2004**, documentation of completion of the educational component of the CDQAP.
 - (2) For owner/operators of dairy facilities with more than 1,000 animal units:
 - (a) By **1 January 2005**, documentation of at least one third-party evaluation of the facility under the CDQAP; and
 - (b) By **1 January 2006**, documentation of certification under the CDOAP.
 - (3) For owner/operators of dairy facilities with 1,000 animal units or less:
 - (a) By **1 January 2006**, documentation of a third-party evaluation of the facility under the CDQAP; and
 - (b) By **1 January 2007**, documentation of certification under the CDQAP, or
 - iii. A Plan with a schedule to obtain certification under a Regional Board recognized local ordinance program by **1 January 2006**.
- d. Owners/Operators of existing confined animal facilities with more than 1,000 animal units other than poultry or dairy facilities shall, in addition, submit one of the following by **31 March 2003.** Owners/operators of existing confined animal

facilities with 1,000 or fewer animal units other than poultry or dairy facilities shall, in addition, submit one of the following by **1 June 2003**:

- Documentation of certification in a Regional Board-recognized Environmental Stewardship Program or approval by the Executive Officer; or
- <u>ii.</u> A plan with a schedule to obtain certification under a Regional Board-recognized Environmental Stewardship Program or local ordinance program by **1 January 2006**.

2. New or Expanding Confined Animal Facilities

- a. **Prior to startup of operations or expansion,** owner/operators of confined animal facilities which are new or expand after 1 January 2003 shall submit:
 - i. A completed Report of Waste Discharge documenting compliance with the conditions of this Waiver;
 - ii. A filing fee in accordance with the State Water Resources Control Board fee schedule (all or a portion of the filing fee will be refunded in accordance with Section 13260(e) of the California Water Code); and
 - iii. Documentation of compliance with the California Environmental Quality Act (CEQA) by a lead agency that adequately evaluates the environmental impacts of the new or expanded facility in an Environmental Impact Report or Negative Declaration; and
 - iv. Documentation of CDQAP certification, development and implementation of a Nutrient Management Plan under the CPF program, or certification in a Regional Board-recognized Environmental Stewardship Program or local ordinance program.

3. Non-commercial Confined Animal Facilities

Persons who own confined animals for non-commercial purposes are not required to submit a Report of Waste Discharge unless they discharge directly into waters of the state and/or they are requested to submit a Report of Waste Discharge by the Executive Officer. These persons are also not required to submit a filing fee, documentation of certification under an Environmental Stewardship Program or local ordinance program, or a plan for such certification unless requested to do so by the Executive Officer. These persons must comply with all applicable state and local laws.

III. Reporting Conditions

1. Annual Report

Owner/operators of confined animal facilities for which waste discharge requirements are waived shall provide an annual report by **30 January** each year to the Regional Board describing waste management practices for the previous year. The annual report should summarize the following:

- a. An inventory of the type (including breed) and the maximum total number of animal units at the facility during the year.
- b. Acreage used for waste disposal and crops grown for waste utilization during the year.
- c. The volume (cubic yards) or weight and initial destination of all solid manure removed from the facility during the year.
- d. A summary of all off-property discharges during the year, including information as described below under III.2.

2. Notification of Release or Discharge

The Discharger shall notify the Regional Board by telephone within 24 hours of any discharge of waste, including wastewater-containing manure, off the facility. This notification shall be followed by a written report that shall be submitted to the Regional Board within five days of the discharge. The written report shall contain:

- a. Date discharge began;
- b. Duration of the discharge;
- c. Point of discharge;
- d. Specific source of waste discharge (i.e., overflow from retention pond, rainfall runoff from manure storage areas, etc.); and
- e. Steps taken to prevent future discharges.

Each report submitted shall be sworn to, or submitted under penalty of perjury.

IV. Additional Conditions

- 1. The Discharger shall comply with all requirements for confined animal facilities in Title 27 California Code of Regulations, Division 2, Chapter 7, Subdivision 1.
- 2. The Discharger shall comply all applicable provisions of the Water Quality Control Plan for the Sacramento and San Joaquin River Basins (4th Edition 1998) and the Water Quality Control Plan for the Tulare Lake Basin (2d Edition 1995).
- 3. The Discharger shall comply with the conditions of this Waiver.
- 4. The Discharger shall comply with all Federal, State, County, and local laws and regulations pertaining to the discharge of wastes from the facility.
- 5. The discharge of any waste not specifically regulated by this Waiver is prohibited unless the Discharger obtains waste discharge requirements or other permission to discharge.
- 6. The Discharger shall discharge only in accordance with the complete Report of Waste Discharge.
- 7. The Discharger shall not create a pollution, contamination, or nuisance, as defined in California Water Code Section 13050.
- 8. Facilities shall not discharge waste, including process wastewater, to surface waters or tributaries to surface waters.
- 9. No person shall initiate a new discharge of waste or make any material changes in any discharge prior to filing a Report of Waste Discharge and no person shall take any of these actions after filing a Report of Waste Discharge but before one of the bulleted items listed below occurs:
 - a. The Regional Board adopts waste discharge requirements; or
 - b. The expiration of 120 days after submittal of a complete report of waste discharge if any of the following applies: (I) the project is not subject to the CEQA (Division 13); (II) the Regional Board is the lead agency for purposes of CEQA, a negative declaration is required, and at least 105 days have expired since the Regional Board assumed lead agency responsibility; (III) the Regional Board is the lead agency for purposes of CEQA, and an environmental impact report or written documentation prepared to meet the requirements of §21080.5 of the Public Resources Code is required, and at least one year has expired since the Regional Board assumed lead agency responsibility; (IV) The Regional Board is a

responsible agency for the purposes of CEQA, and at least 90 days have expired since certification or approval of documentation by the lead agency; or

- c. The Regional Board waives waste discharge requirements pursuant to Section 13269 of the CWC.
- 10. The discharge of any waste, except waste originating from on-site confined animals or from the storage of animal feed to be used on site as allowed by this Waiver, is prohibited.
- 11. The Discharger shall comply with the time schedule to implement requirements of the relevant Environmental Stewardship Program as specified in the Application Conditions in II.1.b, c, and d above.
- 12. The disposal of dead animals at the facility is prohibited unless a Report of Waste Discharge for the disposal has been submitted and waste discharge requirements or a waiver of waste discharge requirements has been issued by the Regional Board.
- 13. The Discharger shall, upon receipt of notice of termination of applicability of the Waiver, immediately cease all activities that may result in discharges that could affect the quality of waters of the state. Upon notice of termination, the Discharger must file a Report of Waste Discharge and submit an applicable filing fee with the Regional Board. Activities that may result in discharges that could affect the quality of waters of the state may commence only upon enrollment by the Executive Officer under the general waste discharge requirements, the adoption by the Regional Board of an individual waiver of waste discharge requirements or individual waste discharge requirements, or in accordance with Water Code Section 13264(a) [which may be longer than 120 days, depending on what is necessary to comply with CEQA].
- 14. In the event of any change in control or ownership of land or waste discharge facilities described in the Report of Waste Discharge, the Discharger shall notify the Regional Board immediately and the succeeding Discharger of that person's responsibility to comply with this Waiver. In order to continue the discharge pursuant to this Waiver, the new Discharger must submit a Report of Waste Discharge and receive approval by the Executive Officer.

V. Compliance Program Conditions

The Discharger shall allow Regional Board staff to inspect the facility for the purpose of determining compliance with this Waiver.

The Discharger shall submit and comply with a monitoring program where directed by the Executive Officer in compliance with California Water Code Section 13267, or other applicable provisions of law.

VI. Management Practices Conditions

- 1. Upon cessation of confined animal operations at the facility, all manure and animal waste impacted soil is to be disposed of appropriately so as not to pose a threat to surface water or groundwater quality or create a condition of nuisance.
- 2. The Discharger shall prevent animals from entering any surface water within the confined area.
- 3. All precipitation and surface drainage outside of manured areas, including that collected from roofed areas and runoff from tributary areas during storm events, shall be diverted away from manured areas unless the drainage is fully retained.
- 4. In the Sacramento and San Joaquin River Basins, retention ponds and manured areas at confined animal facilities in operation on or before 27 November 1984, shall be protected from inundation or washout by overflow from any stream channel during 20-year peak stream flows. Existing facilities that were in operation on or before 27 November 1984, and that are protected against 100-year peak stream flows must continue to provide such protection. Facilities, or portions thereof, which begin operating after 27 November 1984, shall be protected against 100-year peak stream flows. Expansions or upgrades after 1 January 2003 shall be protected against 100-year peak stream flows.
- 5. Confined animal facilities shall be designed and constructed to retain all facility wastewater generated together with all precipitation on, and drainage through, manured areas during a 25-year, 24-hour storm and normal runoff and wastewater generated during the rainy season.
- 6. In the Tulare Lake Basin, animal confinement facilities, including retention ponds, shall be protected from overflow from stream channels during 20-year peak stream flows for facilities that existed as of 25 July 1975 and protected from 100-year peak stream flows for facilities constructed after 25 July 1975. Expansions or upgrades after 1 January 2003 shall be protected from 100-year peak stream flows.
- 7. Manured areas shall be managed to minimize infiltration of water into underlying soils.
- 8. All manure generated at the confined animal facility shall be used beneficially. Records shall be kept detailing the sales or exportation of dry manure from the confined animal facility and include names of buyers or locations of application areas.
- 9. Salt in animal rations should be limited to the amount required to maintain animal health and optimum production.

- 10. Retention ponds shall be lined with or underlain by, soils containing at least ten percent clay and not more than ten percent gravel or artificial materials of equivalent impermeability.
- 11. New manure retention ponds shall be sited, designed, constructed, and operated to ensure that the invert of the pond will be at least five feet above the highest anticipated elevation of underlying groundwater, unless an equivalent engineered alternative is approved by the Executive Officer.
- 12. The Discharger shall promptly notify the Regional Board staff about any situation that threatens the integrity of waste containment features or causes or threatens to cause the discharge of waste off the facility or into any surface water drainage course. The Discharger shall take all reasonable steps to promptly correct any situation that threatens waste containment features or causes or threatens to cause the discharge of wastewater off the facility or into any surface water drainage course.
- 13. The level of waste in the wastewater retention ponds shall be kept at a minimum of two (2) feet from the top of each above ground embankment and a minimum of one (1) foot from the ground surface of each below ground pond. Lesser freeboard may be approved by the Executive Officer when a registered Civil Engineer demonstrates that the structural integrity of the pond will be maintained with the proposed freeboard.
- 14. Feed and manure storage areas shall be graded so that infiltration is minimized and any leachate and storm water runoff is collected and directed to the wastewater retention system.
- 15. The milk parlor and corrals shall be designed and managed to convey all water that has contacted animal wastes to the wastewater retention system and to minimize the infiltration of water into the underlying soils.
- 16. Facility wastewater and collected precipitation and drainage waters shall be discharged for use on disposal fields only if such discharge is in accordance with Title 27 California Code of Regulation Section 22563. Unless the Discharger obtains an NPDES permit that allows discharge of waste to surface waters, the only other allowable discharge is to wastewater treatment facilities approved by the Regional Board.
- 17. Application of manure and wastewater to disposal fields or crop lands shall be at rates which are reasonable for the crop, soil, climate, special local conditions, management system, and type of manure. In determining reasonable rates, the nutrient loading to the reuse area shall consider the nutritive value of manure, wastewater, chemical fertilizers and of the irrigation water.

- 18. Discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to groundwater.
- 19. Lands that receive dry manure shall be managed to minimize erosion and runoff, and applied manure shall be incorporated into surface soils soon after manure application.
- 20. The discharge of any waste at the facility regulated by this Waiver, in combination with other sources, shall not cause underlying groundwater to contain waste constituents in concentrations statistically greater than background water quality.
- 21. Animal confinement areas, manure storage areas, lagoons, disposal fields, and croplands that receive manure shall not create a nuisance.
- 22. A 100-foot setback shall be maintained at all times between water supply wells and animal confinement areas and waste shall not be applied within 100 feet of any water production well unless it can be demonstrated that an adequate sanitary seal exists or it can be demonstrated that the well will not be a conduit for the migration of waste constituents.
- 23. If the wastewater distribution system is connected to a well, the backflow of wastewater into the well is to be prevented and the well shall be fitted with an approved backflow prevention device that meets all applicable federal, state, and local regulations.
- 24. The Discharger shall develop and implement a nutrient management plan, which shall be maintained at the facility and available upon request to the Regional Board for review.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of Attachment A of Resolution No. R5-2002-0205 adopted by the California Regional Water Quality Control Board, Central Valley Region, on 6 December 2002.

[Original Signature on File]
THOMAS R. PINKOS, Executive Officer

Table 1. Number of Animals Equal to 1,000 Animal Units

Animal Type	Number animals = 1,000 animal units	
Slaughter and beef cattle	1,000	
Mature dairy cattle (milked or dry)	700	
Swine over 25 kilograms (approximately 55 lbs)	2,500	
Horses	500	
Sheep or lambs	10,000	
Turkeys	55,000	
Laying hens or broilers (for continuous overflow	100,000	
watering)		
Laying hens or broilers (for liquid manure	30,000	
system)		
Ducks	5,000	

ATTACHMENT B

California Regional Water Quality Control Board Central Valley Region

REPORT OF WASTE DISCHARGE

TO COMPLY WITH THE CONDITIONS OF THE WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM CONFINED ANIMAL FACILITIES RESOLUTION NO. R5-2002-0205

		FACILITY		
Α.	NAME OF FACILITY OR BUSINESS OPERATING	THE FACILITY:		
	ADDRESS OF FACILITY:			
	Number and Street		City	Zip Code
	COUNTY:			
	CONTACT PERSON:	TELEPHO	NE NO	
B.	NAME OF LEGAL OWNER OF FACILITY:			
	ADDRESS OF LEGAL OWNER OF FACILITY:	Number and Street	City	Zip Code
	CONTACT PERSON:			
C.				
Ο.				
	ADDRESS OF CONTACT PERSON:	er and Street	City	Zip Code
	TELEPHONE NO. OF CONTACT PERSON:			
		E OF OPERATION	l	
IND 1.	ICATE NUMBER OF: DAIRY 2. CALF/H	IEIFER RANCH	3. OTHER	
	MILKING COWS	CALVES	IDENTIFY TY	PE/NUMBER OF ANIMALS
	DRY COWS			NO
	HEIFERS			NO
	CALVES			NO
	WAS	TE MANAGEMEN	Т	
ATT A.	ACH ADDITIONAL SHEETS AS NECESSARY. WASTE GENERATION: WHAT IS THE APPROXIMATE AVERAGE DAILY V	OLUME OF WEIGHT OF		ND DEDDING DDODUCED2
	CUBIC YARDS/DAY		TONS/DA	
	WHAT IS THE APPROXIMATE AVERAGE DAILY (I CORRAL FLUSH WATER, EGG WASH WATER, E		OF WASTEWATER (I	.E., MILK BARN WASH WATER,
	GALLONS/E	DAY OR _	GALLONS	S/YEAR
B.	CORRAL SYSTEM: CHECK THE TYPE OF CORR	RAL SYSTEM USED, IF A	APPLICABLE:	
	FLUSH CORRAL SCRAPED CORRAL_	FLUSH FREE	STALLS	CRAPED FREESTALL
	NOT APPLICABLE			
C.	WASTEWATER RETENTION POND: INDICATE THE DIMENSIONS OF ALL WASTEWA	TER RETENTION POND	S:	
	LENGTH (FEET) 1. WIDTH (FEET)	DEPTH (F	<u>EET)</u> <u>F</u>	REEBOARD MAINTAINED (FEET
	2.			
D.	REUSE AREA: INDICATE THE TOTAL FACILITY CROP ACREAGI	E		

	INDICATE THE ACREAGES OF CRO WASTEWATER ARE APPLIED FOR		OPS GROWN	N WHERE <u>ONLY</u> SOLID MANURE AND <u>ONLY</u>				
			PLAND; SI	JMMER CROPS				
				INTER CROPS				
	ONLY WASTEWATER: APPLIED	TOACRES CRC		JMMER CROPS				
				INTER CROPS				
	INDICATE THE ACREAGES OF CROPLAND AND TYPE OF CROPS GROWN WHERE <u>BOTH</u> SOLID MANURE AND WASTEWATER ARE APPLIED FOR REUSE.							
	BOTH SOLID MANURE AND WASTE	WATER: APPLIED TO	<i>F</i>	ACRES CROPLAND;				
			SI	JMMER CROPS				
			W	INTER CROPS				
E.	WASTE REMOVAL: APPROXIMATELY HOW MUCH MAN		ANNUALLY?					
F.	CUBIC YARDS ORTONS MONITORING: ARE THERE ANY GROUNDWATER MONITORING WELLS AT THE FACILITY? YES NO							
G.	SITE MAP: PROVIDE A MAP OF THE FACILITY INCLUDING: FACILITY PROPERTY BOUNDARIES; SURFACE WATER DRAINAGE COURSES DRAINAGE DITCHES; TOPOGRAPHIC FEATURES; LOCATIONS OF ALL MONITORING, DOMESTIC, AND IRRIGATION WELLS; WASTEWATER RETENTION PONDS; MILKING PARLOR; CORRALS; CROPLAND; AND MANURE AND FEED STORAGE AREA.							
		ONMENTAL STEWA						
CA	THE CONFINED ANIMAL FACILITY CE LIFORNIA POULTRY FEDERATION PF IVIRONMENTAL ORDINANCE PROGR.	ROGRAM, OTHER ENVIRON AM?	NMENTAL S					
ı – N		•		•				
יו דוו	NO, WHEN WILL CERTIFICATION BE							
Α.		RONMENTAL QUAL	ITY ACT	(CEQA) COMPLIANCE				
Α.	WAS YOUR FACILITY EXISTING AS	OF 1 JANUARY 2003?		YESNO				
	IF YOUR FACILITY WAS EXISTING AREAS OR SENSITIVE WATERSHE		RECHARGE A					
	APPROXIMATELY HOW MANY CON	IFINED ANIMAL FACILITIES	EXIST WITH	HIN ONE MILE OF THIS FACILITY?				
В.								
	HAS ANY CEQA DOCUMENT BEEN	ADOPTED/CERTIFIED BY	A LEAD AGE	NCY FOR THIS PROJECT?				
	YESNO (IF YES, P	LEASE ENCLOSE A COPY	OF THE ADO	PTION/CERTIFICATION)				
	IF NO, WILL ANY CEQA DOCUMEN	Γ BE PREPARED?	YES	SNO				
	IF YES, WHO WILL PREPARE THE (CEQA DOCUMENT?		 				
	APPROXIMATE DATE OF COM	PLETION						
		CEDTIEICA	TION					
LHE	EDERY CERTIEV LINDER PENALTY O	CERTIFICA		PROVIDED IN THIS REPORT OF WASTE				
DIS		S IS TRUE AND ACCURATI	E TO THE BE	EST OF MY KNOWLEDGE. IN ADDITION, I				
SIG	GNATURE OF OWNER OF FACILITY			SIGNATURE OF OPERATOR OF FACILITY				
PR	RINT OR TYPE NAME			PRINT OR TYPE NAME				